



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/538,643

12/28/2005

Ichiro Takeda

030685-052

3704

55694

7590

02/26/2009

DRINKER BIDDLE & REATH (DC)

1500 K STREET, N.W.

SUITE 1100

WASHINGTON, DC 20005-1209

EXAMINER

NIESZ, JASON KAROL

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

02/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,643

Examiner

JASON K. NIESZ

Applicant(s)

TAKEDA ET AL.

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-10, 12-16, 19-24 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-10, 12-16, 19-24, 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The abstract of the disclosure is objected to because it describes a method only and not the corresponding apparatus. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20, 21, 23, 24, 27, 29, 30 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20 and 23 depend from claim 17 which has been cancelled.

Claims 21 and 24 depend from claim 18 which has been cancelled.

Claims 27 and 30 depend from claim 25 which has been cancelled.

Claims 29 and 32 depend from claim 26 which has been cancelled.

Because the scope of the above claims cannot be determined, examination on the art is precluded.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 9, 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Matzka (US Patent 1,654,379).

In Re claims 1 and 33 with reference to Figure 1 Matzka discloses a liquid filling method wherein a liquid is delivered from a storage tank (21) to a filler tank of a filler (10). Matzka also discloses return piping (36) which refluxes said fluid to said storage tank. In Figure 2 Matzka discloses a filling valve. It can be seen from the valve structure that the reflux line is always open indicating that fluid is circulated constantly.

Claims 9 and 35 are anticipated by the Matzka reference as applied to claims 1 and 33 above.

7. Claims 1, 9, 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Field (US Patent 5,502,978).

In Re claim 1 with reference to Figure 1 Field discloses a liquid filling method wherein a liquid is delivered from a storage tank (7) to a filler tank (14) of a filler (17). Field also discloses a return piping (18) which is used to circulate liquid through the filling line from the storage tank to the filler tank constantly (Column 3, lines 9-14). The examiner notes that the faucet (17) of Field is envisioned as part of a refrigerator water dispenser which would be used to fill glasses.

In Re claim 33 Field discloses circulating the water constantly (Column 3, lines 9-14).

Claims 9 and 35 are anticipated by the Field reference as applied to claims 1 and 33 respectively above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matzka.

In Re claim 2 Matzka as applied to claim 1 above discloses all the limitations, but doesn't disclose a beverage containing a solid component. Matzka discloses a beverage (Page 1, lines 1-2). Beverages containing a solid component (tea, juice, etc.) represent a well known category of beverages which a user might wish to dispense. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Matzka device to dispense a beverage containing a solid component.

In Re claim 10 Matzka as applied to claim 9 above discloses all the limitations, but doesn't disclose a beverage containing a solid component. Matzka discloses a beverage (Page 1, lines 1-2). Beverages containing a solid component (tea, juice, etc.) represent a well known category of beverages which a user might desire to dispense. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to use the Matzka device to dispense a beverage containing a solid component.

10. Claims 4-6, 12-14, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matzka in view of Joslyn (US Patent 6,656,423).

In Re claims 4, 6 and 34 Matzka as applied to claim 4 above discloses all the limitations. With reference to Figure 1 Matzka further discloses a cooling apparatus (10) for cooling a beverage which flows into the storage tank. Matzka doesn't disclose the step of heat sterilizing a beverage. With reference to Figure 1 Joslyn discloses a sterile water generator which sterilizes a water stream by passing it through a heater (64).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Matzka apparatus and method by adding a heater in the fill pipe (19), in order to sterilize a beverage before it is cooled to a desired temperature by the cooling apparatus (10).

In Re claim 5 Matzka in view of Joslyn as applied to claim 4 above discloses all the limitations, but doesn't disclose a beverage containing a solid component. Matzka discloses a beverage (Page 1, lines 1-2). Beverages containing a solid component (tea, juice, etc.) represent a well known category of beverages which a user might wish to dispense. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Matzka device to dispense a beverage containing a solid component.

Claims 12, 14 and 36 rendered obvious by Matzka in view of Joslyn as applied to claims 4, 6 and 34 above.

In Re claim 13 Matzka in view of Joslyn as applied to claim 12 above discloses all the limitations, but doesn't disclose a beverage containing a solid component. Matzka discloses a beverage (Page 1, lines 1-2). Beverages containing a solid component (tea, juice, etc.) represent a well known category of beverages which a user might wish to dispense. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Matzka device to dispense a beverage containing a solid component.

11. Claims 7, 8, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Field.

In Re claim 7 Field as applied to claim 1 above discloses all the limitations, but doesn't disclose a detecting unit on the filler tank. Field discloses controlling a pump based on fluid consumption (Column 3, lines 18-19) but does not disclose a step for determining consumption. Tank level sensors were well known in the art at the time of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Field apparatus by placing a fill sensor on the filler tank, in order to detect water consumption and provide control for the pump.

In Re claim 8 Field discloses a system where fluid is constantly refluxing (Column 3, lines 9-14). This system inherently returns less water to the storage tank (7) when some water is diverted to filler (17).

Claims 15 and 16 are rendered obvious by the Field reference as applied to claims 7 and 8 above.

12. Claims 4, 12, 19, 22, 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Field in view of Joslyn.

In Re claim 4 Field as applied to claim 1 above discloses all the limitations and further discloses a cooling mechanism (Figure 1, 7). Field doesn't disclose a heat sterilization step. Instead Field discloses a filter (6) which serves to remove microbes from the water dispensed. With reference to Figure 1 Joslyn discloses a heater (64) which sterilizes a water stream. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to try any known method for sterilizing the Field water stream whether a filter or a heat sterilizer or a combination of both.

Claim 12 is rendered obvious by Field in view of Joslyn as applied to claim 4 above.

In Re claim 19 Field in view of Joslyn as applied to claim 4 above discloses all the limitations, but doesn't disclose a detecting unit on the filler tank. Field discloses controlling a pump based on fluid consumption (Column 3, lines 18-19) but does not disclose a step for determining consumption. Tank level sensors were well known in the art at the time of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Field apparatus by placing a fill sensor on the filler tank, in order to detect water consumption and provide control for the pump.

In Re claim 22 Field discloses a system where fluid is constantly refluxing (Column 3, lines 9-14). This system inherently returns less water to the storage tank (7) when some water is diverted to filler (17).

Claims 28 and 31 are rendered obvious by the Field reference as applied to claims 7 and 8 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON K. NIESZ whose telephone number is (571)270-3920. The examiner can normally be reached on mon-fri 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason K Niesz

Application/Control Number: 10/538,643
Art Unit: 3751

Page 9

Examiner
Art Unit 3751

/Gregory L. Huson/
Supervisory Patent Examiner, Art Unit 3751